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TELECOM REGULATORY AUTHORITY OF INDIA

**NOTIFICATION**

New Delhi, the 5<sup>th</sup> November, 2012

THE TELECOM COMMERCIAL COMMUNICATIONS CUSTOMER  
PREFERENCE (TENTH AMENDMENT) REGULATIONS, 2012  
(23 OF 2012)

No. 311-13/2012-QoS- In exercise of powers conferred by section 36, read with sub-clause (v) of clause (b) and clause (c) of sub-section (1) of section 11 of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations to further amend the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010), namely:-

**1.** (1) These regulations may be called the Telecom Commercial Communications Customer Preference (Tenth Amendment) Regulations, 2012.

(2) They shall come into force from the date of their publication in the official Gazette.

**2.** In regulation 2 of the Telecom Commercial Communications Customer Preference Regulations, 2010 (6 of 2010) (hereinafter referred to as the principal regulations), after the clause (v), the following clause shall be inserted, namely:-

“(va) “signature” means contents of commercial communications having same or similar characters or strings or variants thereof, but does not include subscriber related information.”

**3.** In regulation 3 of principal regulations, in sub-regulation (4), for the second proviso, the following proviso shall be substituted, namely:-

*“Provided* further that every Access Provider shall, after one month of coming into force of these regulations, at the time of providing a telephone connection, whether Basic Telephone Service or Cellular Mobile Telephone Service, to a new subscriber, other than a telemarketer registered with the Authority, provide in the Customer Acquisition Form the details of Customer Preference Registration facility and obtain from such subscriber

an undertaking that the SIM or connection purchased by him shall not be used for telemarketing and in case such SIM or connection is used for telemarketing, the telecom resources used for the purpose of telemarketing shall be liable to be disconnected."

4. In regulation 19 of the principal regulations, in sub-regulation (4), for the words "the date, time and brief description", the words "the date and description" shall be substituted.

5. In regulation 20 of the principal regulations, in sub-regulation (2),---

(a) for clause (k), the following clause shall be substituted, namely:-

"(k) no Access Provider shall, after fifteen days of coming into force of these regulations, permit any person, other than a telemarketer registered under regulation 14 or an entity sending transactional message, to send more than one hundred SMS per day per SIM at a rate lower than the rate specified in Schedule-XIII of the Telecommunication Tariff Order, 1999;"

(b) after clause (l), the following clauses shall be inserted,

namely:-

“(m) every Access Provider shall, within fifteen days of coming into force of these regulations, send an SMS to its subscribers advising them not to send any commercial communications if they are not registered with the Authority as telemarketer, as sending of commercial communication shall result in disconnection of resources:

*Provided* that the Access Provider shall send a second such SMS within fifteen days of sending of the first SMS and thereafter repeat sending of such SMS to the subscriber every six months;

(n) every Access Provider shall, after three months of coming into force of these regulations, ensure that no SMS, having similar signature, from any source or number originating more than two hundred such SMSs per hour, is delivered through its network:

*Provided* that nothing contained under this clause shall apply to a telemarketer registered under regulation 14 or a transactional

message sending entity or the telephone number exempted by the Authority, by direction, from time to time;

(o) every Access provider shall, within forty-five days of coming into force of these regulations, establish a 'web based unsolicited commercial communication complaint lodging system' and a dedicated email address to enable the consumers to lodge Unsolicited Commercial Communications related complaints."

6. In Schedule-V to the principal regulations, in para (13) of the agreement, after the words "from NTR", the words "or by TRAI" shall be inserted.

7. In Schedule-VI to the principal regulations, for para 4, the following para shall be substituted, namely:-

"4. A customer may register his complaint pertaining to receipt of unsolicited commercial communication by forwarding such communication to 1909 along with the telephone number or header, as the case may be, and the date of receipt of the unsolicited commercial communication in the following format:-

"the unsolicited commercial communication, XXXXXXXXXXXX,

dd/mm/yy"

Where XXXXXXXXXX- is the telephone number or header of the SMS, as the case may be, from which the unsolicited commercial communication has originated.

*Explanation:* The telephone number or header and the date of receipt of the unsolicited commercial SMS may be appended with such SMS, while forwarding to 1909, with or without space after comma."

(Rajeev Agrawal)  
SECRETARY

Note1: The principal regulations were published in the Gazette of India, Extraordinary, Part III, Section 4 vide notification No. 305-17/2010-QoS dated 1<sup>st</sup> December, 2010.

Note 2: The principal regulations were amended vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14<sup>th</sup> December, 2010.

Note 3: The principal regulations were further amended (second amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 28<sup>th</sup> December, 2010.

Note 4: The principal regulations were further amended (third amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 31<sup>st</sup> January, 2011.

Note 5: The principal regulations were further amended (fourth amendment) vide notification No. 305-17/2010-QoS and published

in the Gazette of India, Extraordinary, Part III, Section 4 dated 28<sup>th</sup> February, 2011.

Note 6: The principal regulations were further amended (fifth amendment) vide notification No. 305-17/2010-QoS and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 18<sup>th</sup> March, 2011.

Note 7: The principal regulations were further amended (Sixth amendment) vide notification No. 352-4/2011-CA (QoS) Pt. and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 05<sup>th</sup> September, 2011.

Note 8: The principal regulations were further amended (Seventh amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 25<sup>th</sup> October, 2011.

Note 9: The principal regulations were further amended (Eighth amendment) vide notification No. 352-4/2011-CA (QoS) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 1<sup>st</sup> November, 2011.

Note 10: The principal regulations were further amended (Ninth amendment) vide notification No. 305-24/2011-QoS(SP) and published in the Gazette of India, Extraordinary, Part III, Section 4 dated 14<sup>th</sup> May, 2012.

Note11: The Explanatory Memorandum explains the objects and reasons of The Telecom Commercial Communications Customer Preference (Tenth Amendment) Regulations, 2012 (23 of 2012).

## EXPLANATORY MEMORANDUM

1. The Telecom Regulatory Authority of India issued the Telecom Commercial Communications Customer Preference Regulation, 2010 (6 of 2010) dated the 1st December, 2010 to provide an effective mechanism for curbing Unsolicited Commercial Communications (UCC). All the provisions of regulations came into force from 27th September 2011. With the implementation of these regulations, the number of complaints relating to UCC has reduced considerably.
2. As per the provisions of current regulations, Access Providers are required to upload the UCC complaints and action taken on such complaints on TCCCP portal [www.nccptrai.gov.in](http://www.nccptrai.gov.in), on regular basis. From the data available on TCCCP portal it was seen that most of the complaints lodged by consumers are from numbers who are not registered with the Authority as a telemarketer. Hence, to further tighten the current regulatory framework, TRAI issued a Consultation Paper "Review of The Telecom Commercial Communications Customer Preference Regulations, 2010" and draft "The Telecom Commercial Communications Customer Preference (Tenth Amendment) Regulations, 2012" on 3<sup>rd</sup> August, 2012. Comments received from various stakeholders were uploaded on TRAI website. Open House Discussion on the various issues and proposals was held at Delhi on 10<sup>th</sup> October, 2012. The comments received from stakeholders during consultation process have been duly considered while framing these regulations.
3. It is observed that unregistered telemarketers generally send bulk promotional SMS as a SMS blast using special equipment and software applications. These applications enable unregistered telemarketers to send a large number of SMS within a short time. Hence, the Authority is of the view that it is technically possible to identify bulk promotional SMS having



similar characters or strings or variants. The service providers then could restrict the delivery of such SMSs over their network using technical solutions. In this way, customers sending non-UCC SMS through mobile phones will not be affected by any such restrictions. Similar solution was found to be successful for unsolicited commercial communications from international routes. The Authority has mandated the service providers to implement a solution in their networks which will not allow sending of more than 200 SMS with similar 'signature' in one hour from any source or number, other than from a registered telemarketer or transactional message sending entity or a number exempted by the Authority.

4. Further, it is also noticed that subscribers undertaking telemarketing activities using normal telephone connections use discounted SMS packages available in the market, for sending bulk promotional SMSs. During the consultation, some of the stakeholders have suggested that a differential tariff may be imposed to make it economically unviable for unregistered telemarketers to send commercial communications using ten digit numbers. Such a provision will also encourage unregistered telemarketers to get themselves registered as telemarketer. Accordingly, regulation 20 has been amended mandating the service providers not to allow sending of more than one hundred SMS per day per SIM at a concessional rate. Subscribers can send SMS beyond one hundred SMS per day per SIM. However all such SMSs will be charged at the rate specified in Schedule- XIII of the Telecommunication Tariff Order, 1999.
5. The principal regulations provide that no subscriber, who is not registered with TRAI as a telemarketer shall make any commercial communications. After the implementation of regulations, representations have been received from

consumers that they are not aware of such provision of regulation till they receive notice from the service provider. Accordingly, to increase consumer awareness and also to warn subscribers against such activities, Access Providers have been mandated to send SMS to their subscribers on periodic basis advising them not to send any commercial communications if they are not registered with the Authority as a telemarketer and that sending of commercial communication using ten digit numbers shall result in disconnection of telecom resources.

6. Access Providers have been also mandated that at the time of providing a telephone connection, they shall obtain an undertaking from the subscriber that the SIM purchased shall not be used for telemarketing purposes.
7. As per the current provisions of regulations, customers registered on NCPR may lodge a complaint regarding receipt of unsolicited commercial communications through call or SMS to 1909. For complaint through SMS, customer has to send SMS "COMP TEL NO XXXXXXXXXXXX; dd/mm/yy; Time in hh:mm; short description of Unsolicited Commercial Communication" to 1909, where XXXXXXXXXXXX - is the telephone number or header of the SMS, from which the UCC has originated. However, representations were received from customers that the process of complaint lodging is time consuming and needs to be simplified.

The Authority considered the representations and accordingly has amended the regulation. For easy lodging of a complaint regarding Unsolicited Commercial SMS, provision has been made for forwarding of such SMS by appending the telephone number or header of the SMS, as the case may be, from which the unsolicited commercial communication has originated and date of receipt of such SMS to 1909.

*For example, if a NCPR registered customer received a promotional SMS "buy xyz" from a 10 digit number 9812345678 on 27<sup>th</sup> September 2011, he may forward the SMS to 1909 as "buy xyz, 9812345678, 27/09/11" for registration of UCC complaint. This will obviate the need for inputting the contents of the SMS for complaining through SMS.*

Further, to broaden the options available for consumers to lodge UCC complaints with their service providers, the regulation has also mandated Access Providers to establish a web based UCC complaint lodging system and a dedicated email address to enable the consumers to lodge UCC related complaints.